

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI
FIFTH JUDICIAL DISTRICT

STATE OF MISSISSIPPI

Plaintiff

v.

Cause No. 2003-0071-CR

CURTIS GIOVANNI FLOWERS

Defendant

MOTION TO SET REASONABLE BAIL

COMES NOW Defendant, Curtis Giovanni Flowers and respectfully moves this Court to set pre-trial bail as required by Miss. Code. Ann. § 99-5-35 and as also guaranteed by the Mississippi Constitution. Mr. Flowers also moves for reasonable terms on his bail as required by Mississippi Rule of Criminal Procedure 8.2 and 8.4.

INTRODUCTION

Curtis Flowers has been tried six times for the same alleged capital offenses. Two of those trials ended in a hung jury; the four convictions were declared invalid on appeal, due to egregious prosecutorial misconduct. In these circumstances, Mississippi law is clear: bail is mandatory. A Mississippi statute in place for over half a century requires that bail be granted to persons like Mr. Flowers who have twice endured trial and a hung jury on a capital offense. See Miss. Code Ann. § 99-5-35. The statute dictates that the Court "shall" grant bail in these circumstances. *Id.* The only issue is what conditions are appropriate.

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Moreover, independent of the statute, the Mississippi Constitution requires bail. It provides that a person accused of a capital offense *shall* be granted bail unless “the proof is evident or presumption great.” Miss. Const. art. III, § 29(1)(a). Neither condition is present here. “[I]f a reasonable doubt or a well-founded doubt of guilt *can be entertained*, then proof cannot be said to be evident nor the presumption great.” *Huff v. Edwards*, 241 So.2d 654, 656 (Miss. 1970). (emphasis added). As explained in this motion, evidence that has surfaced since the last trial demonstrates that the proof is not evident and the presumption is not great.¹

If the Court imposes any conditions on Mr. Flowers’s bail, they must be the “least onerous” conditions necessary to reasonably assure his appearance in court or to protect the public from “a real and present danger.” M.R.Cr.P. 8.2(a). Mr. Flowers has no criminal history. He cooperated with law enforcement during this investigation and also appeared when asked to appear for questioning. He is not a danger to the community or a flight risk. He has been a model inmate during the 22 years he has been held in prison and jails since his arrest. A number of former prison guards who supervised him have submitted affidavits in support of him. The former Deputy Commissioner of the Mississippi Department of Corrections said Mr. Flowers has “one of the best jail and prison records I have ever reviewed.” Ex. 1 para 11 (Aff, of Emmitt Sparkman). Mr. Flowers has deep ties to the Winona community. Although it would not be necessary, electronic monitoring can be imposed to confirm compliance with any reasonable geographic restrictions that are imposed. Under the Mississippi Rules of Criminal Procedure, the Mississippi Constitution, and the United States Constitution, bail must be granted under reasonable and affordable terms.

¹ Under the circumstances of this case, bail is also required under the Eighth and Fourteenth Amendments to the United States Constitution.

BACKGROUND

The State’s only direct evidence—the claim by Odell Hallmon that Mr. Flowers gave him a jailhouse confession—proved untrue when Hallmon recently admitted in a recorded interview that his testimony was “a bunch of lies.”² He explained that he told those lies in exchange for leniency from the District Attorney on a series of felony charges. *See Petition for Post-Conviction Relief at 96–105, Flowers v. State, No. 2015-DR-00591-SCT (Miss. Feb. 28, 2019), available at* <https://perma.cc/F856-24MN> [hereinafter “PCR Petition”].³ Another important witness for the Prosecution, Clemmie Fleming, also admitted in a recorded interview that, due to pressure from investigators to shape her story, she testified she saw Mr. Flowers running away from Tardy Furniture on the day of the murders even though that wasn’t true.⁴ Another prosecution witness, Ed McChristian, also recanted his testimony that he saw Mr. Flowers on the morning of the murders, stating in a recorded interview that he too was pressured by investigators to shape his testimony. PCR Petition at 25–26; 135–36.

² *In the Dark* S2 E6: Punishment, APM Reports, <https://apmreports.org/story/2018/05/29/in-the-dark-s2e6>. A team of reporters for American Public Media’s investigative unit, APM Reports, spent a year in Mississippi investigating this case. *In the Dark* has won some of the most prestigious awards in journalism, including the Peabody Award and the George Polk Award.

³ Over the course of four trials, Hallmon told the same lie, and that lie continued to pay dividends for Hallmon and the State. *Id.* First he got out of two drug charges, a robbery charge, and a firearms charge. *Id.* at 97–99. Then, he got out of a drive-by shooting charge. *Id.* at 99–100. Then, another firearms charge and a drug charge, followed by a plea deal on still another drug charge. *Id.* at 100–101. He was then released early from prison; the District Attorney had never sought the habitual offender enhancement that Hallmon repeatedly qualified for. *Id.* While in prison, Hallmon had racked up more than eighty disciplinary incidents, including one month in which he had a razor in his cell, had a “spear” in his cell, and assaulted an officer. *Id.* After early release, he was charged with aggravated assault on a police officer as he attempted to flee a suspected drug transaction. *Id.* at 102. But, at the State’s urging, he was released on minimal bail and the trial was delayed. *Id.* While released on bail, he went on to murder three people. *Id.* at 103–104.

⁴ *In the Dark* S2 E15: Revelations, APM Reports, <https://apmreports.org/story/2019/07/02/in-the-dark-s2e15> [hereinafter “*In the Dark* S2 E15”].

Moreover, significant evidence of other potential perpetrators has emerged since the last trial. District Attorney Evans has maintained from the start that “there is no evidence that I am aware of that points a finger at anyone else.” Hr’g Tr. 616, *Flowers v. State*, No. B2401-98-00960 (Miss. Cir. Ct. of Harrison County. Sept. 2, 1998). In 2016, this Court asked again whether “the State has any information on other suspects” and he answered “no sir.” PCR Petition at 41–42. And the State’s investigator, John Johnson, testified, “I’m not familiar with any other suspect.” *Id.* But reporters determined that, in fact, the authorities had investigated another individual at length: Willie James Hemphill. *See In the Dark* S2 E15. He has an extensive criminal history, wore the type of shoes that purportedly left a bloody footprint at the crime scene, and was apparently told by investigators that witnesses had seen him near Tardy Furniture on the morning of the murders. PCR Petition 44–49. At the time, authorities launched an extensive hunt for Mr. Hemphill and arrested him so they could question him about the murders. *Id.* However, they apparently released Hemphill several days later after he gave them what he later called “an airtight alibi” that authorities never checked and that now appears false. *See In the Dark* S2 E15; PCR Petition 49–50; Parker Yesko, *Where Was Willie James Hemphill on the Morning of The Tardy Murders*, APM Reports, July 2, 2019.⁵ And it turns out that the route from Tardy Furniture to Hemphill’s nearby home passes by 106 Knox Street, where a .380 pistol was later found. PCR Petition at 49. That is the type of pistol purportedly used in the murders. Jeffrey Armstrong said he found that pistol and later told police about it, which was later confirmed by an officer who recalls Armstrong’s statement and who understood the pistol was turned over to authorities (although no one now knows its whereabouts). *Id.* at 121–24.

⁵

<https://www.apmreports.org/story/2019/07/02/willie-james-hemphill-tardy-murders-alibi>

Another suspect was documented on security footage around the same time as the murders. He wore Fila shoes during a series of similar commercial robberies and murders with a team in Alabama. PCR Petition at 35–44. That robbery/murder team used a .380 pistol that tended to jam, just like the weapon used in the Tardy murders. PCR Petition at 78–87. Indeed, because of the similarities in the crimes, Mississippi Highway Patrol Lieutenant Wayne Miller obtained a photograph of one of these men to place in a photo array in this case. *Id.* at 39. And one of the members of the robbery/murder team provided a sworn affidavit stating that two other members were in Mississippi around the time of the murders. *Id.* at 36.

Still another suspect, Doyle Simpson, owned the gun the prosecution claimed was used to kill the victims. Simpson, whose apparent proficiency with the gun included target practice in his mother's back yard, created a public spectacle by loudly claiming around 11 AM on the morning of the murders that the gun was stolen from his car. *Id.* at 21. But Simpson himself testified that he went to the car around 9:15 on that morning and again around 10:25 and noticed nothing amiss. *Id.* It was only during his third trip, which was at “something-to-11,” that he noticed signs of a break-in. *Id.* This was nearly an hour after the Tardy murders were reported, which refutes the prosecution’s claim that Curtis Flowers broke into Simpson’s car, stole his gun, returned home, took it to Tardy Furniture Store, and shot four people that morning.⁶ These holes in the prosecution’s case suggest that Simpson may have been the murderer and may have manufactured the claim of the theft of the pistol to cover it up.

⁶ The prosecution hinged this theory on Katherine Snow, who testified that she saw Mr. Flowers leaning against Doyle Simpson’s car at 7:15 that morning. But even though Ms. Snow claimed she knew it was Mr. Flowers and “figured it was [Mr. Flowers]” who committed the Tardy murders, she did not report this to anyone until a month after the crime and after a \$30,000 reward had been posted. PCR Petition at 22. And based on the facts reported by Mr. Simpson, the gun could not have been stolen around 7:15 AM since he returned to his car multiple times later that morning and it was nearly 11 AM before he saw signs of a break-in.

At any rate, all of these people are more likely suspects than Curtis Flowers who, at the age of 26, had no criminal record and nothing in his background to suggest he would take a pistol and shoot four people in broad daylight in a commercial establishment in downtown Winona.⁷

The only basis for giving the jury a “direct evidence” instruction rather than a “circumstantial evidence” instruction was Odell Hallmon’s testimony. *See, Flowers v. State*, 240 So. 3d 1082, 1110 (Miss. 2017). With Hallmon’s recantation, any future jury must find guilt “not only beyond a reasonable doubt, but to the exclusion of every reasonable hypothesis consistent with innocence.” *Leflore v. State*, 535 So. 2d 68, 70 (Miss. 1988). With the information that has surfaced since the last trial, this standard cannot be met by the prosecution. But at this stage, that is not the question. The question under the Mississippi Constitution for bail purposes is whether “a reasonable doubt . . . can be entertained.” *Huff v. Edwards*, 241 So.2d at 656. Surely a reasonable doubt can be entertained. Therefore the proof is not evident and the presumption not great, and the Mississippi Constitution requires that bail be granted.

As previously stated, the two hung juries require that bail be granted under Miss. Code 99-5-35 without any review of the evidence. But even if that were not the case, bail must be granted under the Mississippi Constitution because the proof is not evident and the presumption is not great.

⁷ The prosecution presented evidence that a bloody shoepoint came from a Fila Grant Hill shoe. Those shoes were very popular at the time. And, as just indicated, Willie James Hemphill wore Fila shoes, as did one of the members of the Alabama robbery-murder team. While the prosecution presented testimony that the print was “consistent” with a never-produced size 10 ½ shoe that it hypothesized Mr. Flowers wore, reliable modern forensic science indicates that the shoepoint could have been left by a wide range of sizes—broadening the already-expansive universe of potential matches. *Id.* at 62–63.

ARGUMENT

I. Mississippi Code § 99-5-35 guarantees bail for Curtis Flowers because he has endured two hung juries.

Mississippi Code Title 99, Chapter 5, provides a number of rules that limit judicial discretion regarding bail.⁸ In particular, Miss. Code Ann. § 99-5-35 requires that bail be granted to capital defendants who have undergone two mistrials due to hung juries. It states:

Any person having been twice tried on an indictment charging a capital offense, wherein each trial has resulted in a failure of the jury to agree upon his guilt or innocence, shall be entitled to bail in an amount to be set by the court.

If the two required conditions are met—(1) the defendant was tried twice for a capital offense and (2) those trials resulted in the failure of the jury to agree upon his guilt—then the defendant is entitled to bail as a matter of law.⁹ Thus, as a matter of law, two hung juries requires that bail be granted without any additional examination of the evidence.

The statute makes bail mandatory. It codifies a common-law rule that originally evolved through judicial discretion. An early case noted that some authorities found that one mistrial due to a hung jury was “itself sufficient to entitle [the defendant] to bail” in a murder case. *Ex parte Pattison*, 56 Miss. 161, 164 (Miss. 1878). The Mississippi Supreme Court declined to adopt a single-mistrial rule, but found that a second hung jury “may authorize the admission to bail.” *Id.* (noting that the case for bail is particularly strong where, as here, exculpatory evidence has emerged since the first trial). In 1966, the Mississippi legislature codified a version of the early judicial rule. Importantly, rather than stating merely that a judge “may” grant bail, the legislature mandated the outcome, codifying a rule that a capital defendant “shall” be entitled to bail after two hung juries. Miss. Code Ann. § 99-5-35.

⁸ See, e.g., Miss. Code Ann. § 99-5-33 (applying a specific bail rule for attempted murder); Miss. Code Ann. § 99-5-37 (same for domestic violence offenses).

⁹ See also Miss. Code. Ann. § 1-3-4 (defining “capital offense” as an offense “punishable by death or imprisonment for life in the state penitentiary”).

The Madison County Circuit Court recently granted a bail motion pursuant to § 99-5-35's requirement that the court *shall* set bail. The defendant charged with capital murder had gone through two previous trials resulting in hung juries. The court's order stated that the defendant was "entitled to a reasonable bond" pursuant to "Mississippi Rules of [Criminal Procedure] 8.2 and Miss. Code Ann. § 99-5-35." *See Ex. 7 (Order to Set Bond, Mississippi v. Archie, No. 2013-0159-E (Miss. Cir. Ct. of Madison County Feb. 12, 2019)).*

So too here. Curtis Flowers has endured two mistrials under the same capital indictments. Both ended in hung juries. He is entitled to bail.

II. Independent of Mississippi Code § 99-5-35, the Mississippi Constitution requires bail.

Under the Mississippi Constitution, "Excessive bail shall not be required, and all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses (a) when the proof is evident or presumption great . . ." Miss. Const. art. III, § 29(1). Bail is a "fundamental, constitutionally protected right . . . essential to the protection of the liberty of individuals." *Resolute Ins. Co. v. State*, 233 So.2d 788, 789 (Miss. 1970). To deny bail to Mr. Flowers would improperly "punish[] [him] prior to a guilty verdict while he is clothed with the presumption of innocence," *Lee v. Lawson*, 375 So. 2d 1019, 1021 (Miss. 1979)—a presumption that this Court must ensure is "sacredly upheld," *Tennison v. State*, 31 So. 421, 422 (Miss. 1902).

While the statute is mandatory in requiring bail after two mistrials, Mississippi's constitutional right to bail is subject to narrow exceptions. Specifically, in capital cases, the Mississippi Constitution does not guarantee bail when "the proof is evident or the presumption

great” that the defendant is guilty. Miss. Const. art. III, § 29(1)(a).¹⁰ In those circumstances, the presiding judge *may* choose to deny bail,¹¹ unless (as here) the legislature has otherwise required that bail be granted. *See, e.g.*, Miss. Code Ann. § 99-5-35. Conversely, in capital cases where the proof is *not* evident nor the presumption great, the defendant “shall, before conviction, be bailable.” Miss. Const. art. III, § 29(1). *See also Martin v. State*, 52 So. 258, 258 (Miss. 1910) (“[I]f the proof is not evident or the presumption great, [a prisoner indicted for a capital offense] is entitled to bail as a matter of right.”); *Parker v. Tullos*, 116 So. 531, 531 (Miss. 1928) (overturning the trial court’s denial of bail on murder charge where proof was neither evident nor the presumption great).

The Mississippi Supreme Court has held “evident proof” to mean “clear, strong evidence which leads a well-guarded dispassionate judgment to the conclusion that the offense has been committed as charged.” *Huff v. Edwards*, 241 So.2d 654, 656 (Miss. 1970). And the presumption is great “when the circumstances testified to are such that the inference of guilt naturally to be drawn therefrom is strong, clear, and convincing to an unbiased judgement and excludes all reasonable probability of any other conclusion.” *Id.* But “if a reasonable doubt or a well-founded doubt of guilt *can be entertained*, then proof cannot be said to be evident nor the presumption great.” *Id.* (emphasis added). In that case, bail “is not a matter of mere discretion with the court, but of right to the prisoner.” *Ex parte Wray*, 30 Miss. 673, 679

¹⁰ “Excessive bail shall not be required, and all persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses (a) when the proof is evident or presumption great. . . .” Miss. Const. art. III, § 29(1).

¹¹ *See, e.g.*, *Ex parte Bridewell*, 57 Miss. 39, 42 (Miss. 1879) (allowing for discretion of the presiding judge to grant bail even where there is evident proof or a great presumption of guilt of a capital offense). Indeed, “extraordinary circumstances” like “protracted delay on the part of the state in bringing prisoner to trial” justify bail even where the constitutional standard is not met. *Id.* Here, Mr. Flowers has been imprisoned for more than 22 years without a valid conviction because of the State’s persistent prosecutorial misconduct in the face of rebukes from the Mississippi Supreme Court and, now, the Supreme Court of the United States. That is extraordinary by any measure, and is the sort of circumstance that justifies bail even if not otherwise required.

(Miss. 1856) (finding that even where witnesses saw the defendant attack the victim, bail was warranted because the government had not adequately established malicious intent).

The fact that “a reasonable doubt . . . can be entertained” is demonstrated as a matter of law by the two mistrials. That is why the statute requires bail. Moreover, as explained above, evidence uncovered more recently demonstrates to an even greater extent that “a reasonable doubt . . . can be entertained.”

Thus, under the unusual circumstances of this case, the proof is not evident and the presumption is not great and bail is required under the Mississippi Constitution. Of course, as mentioned previously, this Court need not address the constitutional issue since the Mississippi legislature has required that a person in this position be released on bond under § 99-5-35.

III. When granting Curtis Flowers bail, this Court must set a reasonable bond based on the factors prescribed in The Mississippi Rules of Criminal Procedure.

For capital felonies, Mississippi Rule of Criminal Procedure 8.2 recommends a bond range from “\$25,000 to No Bail Allowed.” M.R.Cr.P. 8.2(c). Under the unusual facts of this case, § 99-5-35 and the Constitution guarantee bail so long as *some* bond is set; “No Bail Allowed” is not an option. So this Court’s task is to determine how high to set that bond. The purpose of imposing *any* monetary bond “is to secure the presence of the accused at trial.” *Lee*, 375 So 2d at 1021.

Rule 8.2 “embodies the guarantee against excessive bail” provided by the Mississippi Constitution and “is based on the presumption of innocence of the accused.” M.R.Cr.P. 8.2 cmt.

Rule 8.2(a) “provide[s] detailed guidance for the judge setting bond as to the range of inquiries that should be made.” *Id.* This section was written “to ensure that a judge not give inordinate weight to the nature of the present charge.” *Id.* Instead, the bond amount *must be reasonable* in light of the circumstances; otherwise, it is unconstitutional. *See Brown v. State*,

217 So.2d 521, 523 (Miss. 1969) (emphasis added) (“[T]he Mississippi Constitution guarantee[s] that excessive bail bonds shall not be required, and if excessive bail is required, it is considered tantamount to a denial of bail.”); *Clay v. State*, 757 So.2d 236, 241 (Miss. 2000) (finding that a judge abused her discretion where she set excessive bail).

In determining the amount and conditions of bond, the court “shall take into account” fifteen categories of factors:

- (1) the age, background and family ties, relationships and circumstances of the defendant;
- (2) the defendant’s reputation, character, and health;
- (3) the defendant’s prior criminal record, including prior releases on recognizance or on unsecured or secured appearance bonds, and other pending cases;
- (4) the identity of responsible members of the community who will vouch for the defendant’s reliability;
- (5) violence or lack of violence in the alleged commission of the offense;
- (6) the nature of the offense charged, the apparent probability of conviction, and the likely sentence, insofar as these factors are relevant to the risk of nonappearance;
- (7) the type of weapon used (e.g., knife, pistol, shotgun, sawed-off shotgun, assault or automatic weapon, explosive device, etc.);
- (8) threats made against victims or witnesses;
- (9) the value of property taken during the alleged commission of the offense;
- (10) whether the property allegedly taken was recovered or not, and damage or lack of damage to the property allegedly taken;
- (11) residence of the defendant, including consideration of real property ownership, and length of residence in the defendant’s domicile;
- (12) in cases where the defendant is charged with a drug offense, evidence of selling or distribution activity that should indicate a substantial increase in the amount of bond;
- (13) consideration of the defendant’s employment status and history, the location of defendant’s employment (e.g., whether employed in the county where the alleged offense occurred), and the defendant’s financial condition;
- (14) sentence enhancements, if any, included in the charging document; and
- (15) any other fact or circumstance bearing on the risk of nonappearance or on the danger to others or to the public.

M.R.Cr.P. 8.2(a).

Regarding the first four categories, Mr. Flowers has no prior criminal record, an excellent prison record over the last 22 years, and has strong ties to the community: Before he was imprisoned, he had lived nearly his whole life in Winona. *See* Ex. 9 ¶¶ 2–3 (Aff. of Archie L. Flowers (Sept. 18, 2019)) [hereinafter “A. Flowers Aff.”]. He was born and raised there. *Id.* His father, with whom he is very close, lives there. *Id.* So did his mother until she recently passed away while Mr. Flowers was in prison. *Id.* ¶ 5. His brother and one of his sisters, with whom he is also close, live nearby. *Id.* ¶ 4. His daughter and grand-daughter live nearby. *Id.* ¶ 5. His church is there. *Id.* ¶ 8. He regularly performed with his father in a gospel singing group in surrounding areas even after the allegations against him became public knowledge. *Id.*

In less than a year, Mr. Flowers will turn fifty. While in prison he has developed diabetes that requires regular insulin shots. *Id.* ¶ 7. His father is 77.

Mr. Flowers, who was 26 when arrested in this case, had no criminal record whatsoever beyond the allegations in the present case. He has no record of failing to appear or report to any court. Before his arrest, he knew that he was a person of interest. He made no attempt to conceal his whereabouts from police during the nearly six months between first being interviewed and his arrest. He met with law enforcement every time he was requested to do so and consented when they asked to take his clothing, shoes, and other personal effects.

While in jail and prison he has been a model inmate with essentially no record of disobedience, let alone violence. A record like this is nearly unheard of for anyone who has been behind bars for over twenty years. But that record is entirely consistent with the absence of a criminal record prior to his arrest.

Most of the factors in categories five, six, seven, nine, and ten would apply the same way to *anyone* accused of a capital murder. But, for reasons already explained, the “apparent probability of conviction” is low—much lower than the typical capital murder case. Of course even before most of these revelations the State was unable to secure a valid conviction, notwithstanding two decades of trying.

Mr. Flowers has never made threats against victims or witnesses—factor eight. The allegations in this case are not for drug offenses—factor twelve. There were no sentence enhancements—factor fourteen—because Mr. Flowers has no criminal history.

Mr. Flowers has been imprisoned for over twenty years, so he has no regular residence or relevant employment history—factors eleven and thirteen. When released, his family is willing to take him in. A. Flowers Aff. ¶ 4.¹²

Returning to factor (4), it speaks of “responsible members of the community who will vouch for the defendant’s reliability.” For the last 22 years, Mr. Flowers has been imprisoned as the prosecutors have repeatedly committed egregious misconduct that has led to the present situation. Attached are affidavits from four responsible members of the community where he has spent the last 22 years—guards and officials who can attest to his reliability in following rules and maintaining an impeccable record of good behavior.

¹² Prior to the last trial, the State made much of the fact that Mr. Flowers was living in Texas, where one of his sisters lived, at the time he was finally arrested. But that was much ado about nothing. Mr. Flowers had fully cooperated with the authorities while they investigated him. *See Ex. 8 ¶¶ 2–3 (Decl. of Lola Flowers (Apr. 13, 2010)).* And the authorities knew where he was. They had his sister’s address and contact information. *Id.* ¶ 2. Moreover, he returned to Winona regularly, including the weekend before his arrest. *Id.* ¶¶ 3–4. In fact, the arrest warrant was issued *while he was in town*. *Id.* ¶ 4. But the authorities did not seek his voluntary surrender, nor did they forcibly arrest him. *Id.* Instead, they chose to wait. *Id.* They took him into custody in Texas a few days later. *Id.* While creating greater drama, that was entirely unnecessary. He was in town days earlier, and after his arrest he immediately waived extradition and voluntarily returned to Montgomery County to stand trial. *Id.*

One of them is Emmitt Sparkman, who has over forty years of experience in both correctional facilities and alternatives to incarceration. He has served as the Superintendent of the Mississippi State Penitentiary at Parchman and spent ten years as the Deputy Commissioner for Institutions in the Mississippi Department of Corrections. *See* Ex. 1 ¶¶ 1–9 (Aff. of Emmitt Sparkman (Sept. 13, 2019)) [hereinafter “Sparkman Aff.”]. He was also involved in developing the Mississippi Department of Corrections inmate classification system—which he also oversaw at state and county facilities statewide. *Id.* Upon reviewing Mr. Flowers’s records from Parchman and three county jails while awaiting trial, he concludes that Mr. Flowers has “one of the best jail and prison records I have ever reviewed.” *Id.* ¶ 11. Mr. Sparkman explains that “Curtis Flowers has an exemplary prison and jail record for an individual incarcerated from 1997 to the present,” and that the records show that he has been a “model prisoner.” *Id.* Indeed, over the many years that Mr. Flowers was incarcerated at Parchman under his watch, Mr. Sparkman “never received any negative information from other employees or prisoners regarding Curtis Flowers.” *Id.* ¶ 16. Rather, the reports he received were that Mr. Flowers “did not cause any problems for staff and other inmates.” *Id.* And Mr. Flowers’s records indicate that he is “an individual that is respectful of staff and other inmates and strictly abides by the rules and regulations.” *Id.* ¶ 11. Furthermore, there are “no incidents of violence against staff or other inmates during his jail and prison incarceration,” “no evidence Mr. Flowers has been an escape risk,” and no indication from the records or his institutional behavior “that Mr. Flowers would be a threat to public safety or a flight risk if released on bail.” *Id.* ¶¶ 14–15, 17–18.

The Lieutenant who supervised Death Row inmates and directly monitored Mr. Flowers for years agrees: “From observing Curtis and his exemplary conduct at Parchman . . . I do not believe he would pose a danger or a risk of fleeing.” Ex. 4 ¶ 13 (Aff. of Nathan Harris (Aug. 10, 2019)).¹³

Only one violation of the rules in over twenty years is noted in the files. On July 29, 2010, he received a reprimand for passing something to another offender. The object was a pen. *See* Ex. 2 ¶ 9 (Aff. of Tracy Jackson (Aug. 23, 2019)).¹⁴ Mr. Flowers has consistently avoided trouble. For example, when inmates have conflicts, the prison can flag their file with a “red tag” so that they don’t come into contact with one another. When Mr. Flowers was sent back to Parchman after his second trial, he requested a “red tag” so he would be kept away from two inmates who “had problems with me. . . . because I wouldn’t join their gang.” Ex. 5 (Red Tag Request from Curtis Flowers (Dec. 26, 2001)).

When Mr. Flowers was held in county jail between trials, the story is the same. As the captain who was in charge of security at the Carroll-Montgomery Correctional Facility explains, Mr. Flowers was “a very good prisoner,” “was never an aggressive person and never displayed any tendency toward violence,” and caused no trouble. Ex. 3 ¶ 5 (Aff. of Michael Smith (July 21, 2019)). Based on his observation of Mr. Flowers’s “excellent conduct” while in jail, he does not believe that Mr. Flowers “would be a danger to anyone or a flight risk if released on bail.” *Id.* ¶ 8.

¹³ “In all my time knowing him at Parchman, Curtis never was a problem.” *Id.* ¶ 12. “Curtis was quiet and he got along with everyone.” *Id.* ¶ 6. “I have never seen Curtis become aggressive.” *Id.* ¶ 7. “Curtis was also a positive role model for other prisoners. If other inmates were giving me trouble, Curtis would tell them to listen to me.” *Id.* ¶ 9. “Curtis had good parents and a good family. . . . It is clear that his family—his parents—and his siblings—and he have a very strong bond.” *Id.* ¶ 11. “He often sang gospel songs for us.” *Id.* ¶ 10.

¹⁴ “Curtis was written up once for a minor offense, a long time ago. He loaned a pen to another offender. As far as I recall, that was the only time Curtis was written up during his time at Parchman. Other officers and I were surprised that Curtis was ever written up because he had such a spotless record otherwise.” *Id.* ¶ 9.

The official Mississippi Department of Corrections inmate-classification system has long ranked Mr. Flowers at the lowest possible level for someone convicted of a capital offense. *See, e.g.*, Ex. 6 (Miss. Dep’t of Corrs., Male Inmate Reclassification Score Sheet (Apr. 2, 2019)). No institutional violence. No prior felonies. No escape history. Institutional disciplinary report for the last 12 months: “None” (with a note about the pen-passing incident in 2010). Severity of most serious report: “None or Minor.” Current age: “40-49” (adding zero points to his overall dangerousness score). *See id.* As affirmed by Emmitt Sparkman, this score places him in the “minimum custody” category, but “He cannot be assigned minimum custody because of death row status.” Sparkman Aff. ¶ 12. Subtracting six points for the severity of conviction that has now been overturned, his official Mississippi Department of Corrections ranking would be low indeed: negative four. *Id.* ¶¶ 12–13. The only way for him to achieve a lower score would be for him to remain incarcerated for another year, when another point would be deducted because he would be in his fifties. *Id.*

This is no ordinary case for bail. As discussed previously, bail is required here. The relevant factors indicate that any monetary bail should be set at a reasonable and affordable amount and that special conditions are not required. However, in the event this Court deems it necessary, it can monitor Mr. Flowers’ whereabouts and his compliance with any geographic restrictions through electronic monitoring.

CONCLUSION

For the foregoing reasons, this motion for bail should be granted.

Respectfully Submitted,

ROBERT B. MCDUFF
MS Bar No. 2532
Mississippi Center for Justice
767 North Congress Street
Jackson, MS 39202
rbm@medufflaw.com
601-259-8484 (m)
601-969-0802 (o)

Counsel for the Defendant

September 19, 2019

**IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI
FIFTH JUDICIAL DISTRICT**

Circuit Court of Montgomery County, Mississippi, Cause No. 2003-0071-CR

STATE OF MISSISSIPPI

Plaintiff

v.

CURTIS GIOVANNI FLOWERS

Defendant

**EXHIBITS TO DEFENDANT'S
MOTION TO SET REASONABLE BAIL**

Exhibit Number	Exhibit Description
1	Affidavit of Emmitt Sparkman
2	Affidavit of Tracy Jackson
3	Affidavit of Michael Smith
4	Affidavit of Nathan Harris
5	Red Tag Request from Curtis Flowers
6	Miss. Dep't of Corrs., Male Inmate Reclassification Score Sheet
7	Order to Set Bond, <i>Mississippi v. Archie</i> , No. 2013-0159-E (Miss. Cir. Ct. of Madison County Feb. 12, 2019)
8	Declaration of Lola Flowers (Apr. 13, 2010)
9	Affidavit of Archie L. Flowers

EXHIBIT 1

AFFIDAVIT OF EMMITT L. SPARKMAN

1. I am a corrections consultant and subject matter expert with over forty-four years' experience working in juvenile and adult community and institution corrections.

2. I have held line and supervisory positions in the states of Texas, Kentucky and Mississippi. These positions include correctional officer, education consultant, correctional captain, correctional major, probation officer, intake-detention superintendent, director of security, director of education, warden, superintendent, and deputy commissioner.

3. My experience includes both working in the public and private corrections sector. I served as a Warden of two private pre-release centers in the State of Texas, a 936-bed medium security prison in the State of Kentucky, and a 1,000-bed private medium security prison in Mississippi.

4. In June 2001, I was named the Superintendent of the Mississippi State Penitentiary, a prison complex with approximately 5700 beds at that time in 18 separate prisons that included a 1,000-bed supermax prison (Unit 32), housing death row and the highest risk offenders in the Mississippi Department of Corrections. I served in that position from June 2001 until December 2002.

5. I was appointed the Deputy Commissioner of Institutions for the Mississippi Department of Corrections in November 2002 and served in that position until May 2013, when I resigned from that position and accepted the position of Education Director at the Mississippi State Penitentiary. As Deputy Commissioner for Institutions, I was responsible for three state prison complexes, five private prisons, and fifteen regional prisons. I also had responsibility for the classification, records, employee training, and treatment, facilities/engineering and agriculture departments of the Agency.

6. I have been a certified American Correctional Association Auditor since 1995. I have conducted numerous accreditation audits for prisons of the Federal Bureau of Prisons, and state corrections systems serving as an audit team chairperson and member.

7. I have extensive experience in the development of offender classification policies and procedures, and oversight of an agency offender classification system.

8. I have extensive experience in the operation of correctional facilities and alternatives to incarceration.

9. I have extensive experience overseeing Mississippi Department of Corrections' operations including death row due to my Agency employment as the Deputy Commissioner for Institutions, and Mississippi State Penitentiary Superintendent and Director of Education from June 2001 through August 2016. I retired from the Mississippi Department of Corrections in August 2016.

10. I have reviewed the provided Curtis Flowers records from the Mississippi Department of Corrections (MDOC) and Mississippi Jails: Carroll/Montgomery, Leflore, and Harrison Counties.

11. Curtis Flowers has an exemplary prison and jail record for an individual incarcerated from 1997 to the present. This is one of the best jail and prison records I have ever reviewed. Curtis Flowers is a model prisoner. He had only one (1) minor rule violation report received on July 7, 2010, for passing a pen to another death row prisoner. A prisoner only receiving one (1) rule violation report in over twenty (20) years of incarceration in jail and prison is indicative of an individual that is respectful of staff and other inmates and strictly abides by the rules and regulations. Passing an inmate a pen is a very minor violation that does not normally result in the issuance of a rule violation report. The sanctions for such a minor

violation range from a written reprimand to loss of privileges of ten (10) days or less. Mr. Flowers received a reprimand and a loss of privileges but the report does not state for how long his privileges were lost.

12. The Mississippi Department of Corrections utilizes a classification system to establish prisoner risk and needs. The classification system has been established valid and reliable by a nationally recognized prison classification expert, Dr. James Austin. Mr. Flowers received a minimum custody score of two (2) points on his last April 2, 2019, MDOC Classification Assessment: 6 points for the severity of his offense, -2 points due to no rule violation report in the last 12 months and -2 points for satisfactory performance in recommended work/treatment programs in the last 6 months. Without the severity of offense 6 points, Mr. Flowers would have a score of -4 points, which would normally mean he should be in minimum custody. He cannot be assigned minimum custody because of death row status.

13. The Mississippi Department of Corrections Risk Assessment and Criminogenic Needs Questionnaire for Curtis Flowers completed on September 25, 2017, has Mr. Flowers as high risk due to three (3) or more felonies at booking, one (1) prior incarceration and one (1) institution violation. The instrument is scored incorrectly and not valid based on current information. Mr. Flowers has no prior incarcerations because this was his only conviction and any prior incarcerations stemmed from earlier convictions (later overturned) for the same crime. He had only one felony conviction during the entire time he was in MDOC. A correct Mississippi Department of Corrections Risk Assessment and Criminogenic Needs Questionnaire would score Mr. Flowers as low risk with a score of one (1) point for his one (1) institutional violation (passing a pen to another prisoner), zero points since he had only one felony conviction at booking, and zero points for no prior incarcerations.

14. Mississippi Department of Corrections and County Jail records reveal Mr. Flowers has no prior criminal history before his arrest on January 17, 1997. There are no incidents of violence against staff or other inmates during his jail and prison incarceration.

15. Mississippi Department of Corrections and County Jail records revealed no evidence Mr. Flowers has been an escape risk while he has been incarcerated.

16. During my Mississippi Department of Corrections employment, I never received any negative information from other employees or prisoners regarding Curtis Flowers. The only reports I received were about his positive adjustment and that he did not cause any problems for staff and other inmates. A testament to Mr. Flowers striving to follow the rules and regulations is that he requested a “red tag” from another death row prisoner due to the prisoner threatening him for refusing to join the other prisoner’s gang.¹

17. Mississippi Department of Corrections and County Jail records revealed no information that Mr. Flowers would be a threat to public safety or a flight risk if released on bail.

18. In my Mississippi Department of Corrections employment as Deputy Commissioner for Institutions, and Mississippi State Penitentiary Superintendent and Director of Education from June 2001 through August 2016, no information came to my attention regarding Curtis Flowers’ institutional behavior that would make him a threat to public safety or a flight risk if released on bail.

¹ A Mississippi Department of Corrections “Red Tag” is a classification action where a prisoner requests to be kept separate from another prisoner(s) because he/she believes the other prisoner is a threat to his personal safety.

FURTHER, Affiant sayeth not.


Emmitt Sparkman

SWORN TO AND SUBSCRIBED before me on this the 13 day of Sept,
2019.


NOTARY PUBLIC

MY COMMISSION EXPIRES:

07-02-2020



EXHIBIT 2

STATE OF MISSISSIPPI
COUNTY OF BOLIVAR

Affidavit of Tracy Jackson

1. My name is Tracy Jackson.
2. I was a sergeant on Death Row at Mississippi State Penitentiary [“Parchman”] until earlier this year, when I retired after over 10 years of working at Parchman.
3. I met Curtis Flowers while working on Death Row at Parchman. I have supervised him for many years.
4. Curtis was very good and polite from the first moment I met him. I regularly supervised Curtis in his cell and often escorted him out into the yard or to visitation with his family. With Curtis, I knew I could trust him. He never gave me any trouble.
5. Curtis was always positive. Some of the other inmates had good and bad days, but Curtis’s attitude never changed. He never got mad and never raised his voice. There were other inmates who could be negative and get into trouble, but Curtis pulled away from people who were negative. In doing so, he avoided trouble and stayed positive.



6. Curtis was the type of person who would make you laugh and brighten your day up. For instance, Curtis knew I was dealing with a health condition over the years, and he would frequently check in with me and ask how I was doing. Curtis was encouraging with other people, both staff and other offenders.

7. I often saw Curtis speaking with other inmates about religious faith. With some guys, there is a question of their sincerity when it came to their faith, but there was never a question with Curtis. He is very sincere.

8. I never saw Curtis get into a disagreement or altercation with anybody. This was very unusual among inmates. Curtis got along with everybody. There were many other officers who worked in the unit who agreed with me that Curtis was a good guy.

9. I knew that Curtis was written up once for a minor offense, a long time ago. He loaned a pen to another offender. As far as I recall, that was the only time Curtis was written up during his time at Parchman. Other officers and I were surprised that Curtis was ever written up because he had such a spotless record otherwise. It was generally known that Curtis was not one of the inmates who would cause trouble. I know I never gave Curtis a write-up in all my time working at Parchman.



10. Lending something like a pen to someone else is a common infraction at the prison. A lot of guys used to get written up for loaning things to others. The punishment for a minor offense like that was usually a temporary loss of privileges to the canteen, ^{TJ} ~~yard time~~, or visitation. However, unlike Curtis, many of the other inmates would get angry about their write-up and be cussing and swearing about it. This was not true of Curtis, who accepted his penalty.

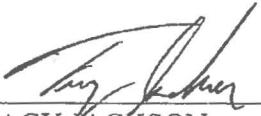
11. I came to know Curtis's family through their visits at Parchman. His family would come visit Curtis faithfully. His family visits were something that Curtis looked forward to.

12. Curtis has always talked about his innocence. Having observed his behavior and exceptionally good record over the many years I supervised him, I came to believe him and still do. Other officers did as well.

13. Out of the hundreds of inmates I have worked with over the years, Curtis has stuck out. There are other men in prison who are good and sincere, but Curtis is really on a whole new level compared even to them.

14. I do not believe Curtis would be a danger to anyone or a flight risk if released on bail. I believe he would comply with all conditions and instructions.





TRACY JACKSON

Sworn to and subscribed before me on this 23 day of August 2019.

Patricia Merritt



EXHIBIT 3

STATE OF MISSISSIPPI

COUNTY OF LEFLORE

AFFIDAVIT OF MICHAEL SMITH

1. My name is Michael Smith.

2. I was a captain at the Carroll-Montgomery County Regional Correctional Facility ["CMRCF"] when Curtis Flowers was held there prior to his last trial.

3. I worked in corrections for almost two decades. I started out at Parchman and then worked at CMRCF. When I retired at CMRCF, I was third in command.

4. At the time Curtis was there, I was responsible for security. After he arrived to CMRCF, I could clearly see that Curtis was no problem. He was different than the other inmates. He often sat quietly. And he could sing very well.

5. Curtis was a very good prisoner who complied with rules and commands. He was respectful of staff and other prisoners. He was never an aggressive person and never displayed any tendency toward violence. He was a very low-key and peaceful person. He got along with everyone, was easy to deal with, and earned the respect of others. I do not recall him ever getting in trouble. People liked him.



6. We had a choir at the facility. Because he was such a good singer and a good prisoner, Curtis was allowed to join it. When Curtis was in it, the choir would perform during church services at the facility. Sometimes outside people came in to attend the service and the choir would sing for them too.

7. I came to know Curtis's family when they visited him. Curtis was close to his family and supported and loved by them.

8. From knowing Curtis while he was in jail, and from observing his excellent conduct there, I do not believe Curtis would be a danger to anyone or a flight risk if released on bail. I believe he would comply with all conditions and instructions.



MICHAEL SMITH

Sworn to and subscribed before me on this 21 day of July 2019.

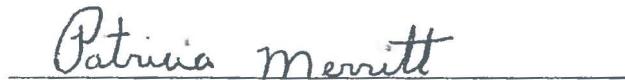


EXHIBIT 4

STATE OF MISSISSIPPI
COUNTY OF COAHOMA

Affidavit of Nathan Harris

1. My name is Nathan Harris.
2. I was a lieutenant at Mississippi State Penitentiary ["Parchman"] when Curtis Flowers was incarcerated there after his last trial.
3. I worked in corrections for nearly three decades, all of which was at Parchman. After more than 20 years of working there, I was asked by the warden to transfer over to Unit 29 to supervise Death Row inmates and high-risk offenders. For approximately five years until my retirement in 2017, I was one of the senior administrators overseeing Death Row. That is when I first met and came to know Curtis Flowers, who was housed on Death Row.
4. When I first went over to the Death Row unit, the officers who had been there let me know the inmates who would give me trouble and those who would not. Multiple officers assured me Curtis Flowers was not going to give me any trouble.
5. Back when I arrived, the unit could get chaotic at times. Some of the inmates acted out and caused problems for the staff. However, Curtis was never one of those inmates. He was never acting out like that. Whatever the rules were, Curtis abided by the rules.



Patricia Merritt

6. At Parchman, Curtis was quiet and he got along with everyone. He got along with the staff and other prisoners. Usually I would find him sitting quietly in his cell, watching TV or talking with the prisoners in the cells next to his.

7. In general, Curtis carried himself in a very professional way. Unlike some of the other inmates, I have never seen Curtis act out, stop eating or act violently towards another inmate or officer. I have never seen Curtis become aggressive. I have never seen Curtis in an altercation with another inmate.

8. In fact, I believe that the only time Curtis ever got in trouble was for a minor rule violation. I know it was nothing major or serious. I know I personally never gave Curtis a rule violation while I was at Parchman.

9. Curtis was also a positive role model for other prisoners. If other inmates were giving me trouble, Curtis would tell them to listen to me and the other correctional officers. Curtis would tell them that I was just doing my job. Curtis would do anything to help people.

10. Curtis was a good singer. Often when we took Curtis out to see his family or an attorney, he would sing songs on his walk over to visitation, which we enjoyed very much. Sometimes the other officers or I, or other inmates, would ask Curtis to sing and he would. He often sang gospel songs for us.

Patricia Merritt



11. Curtis had good parents and a good family. I got to know Curtis's family from their regular visits with him on Death Row. While I was there, I saw one or more members of his family visit Curtis almost every week without fail. I often observed them during their visits. It is clear that his family – his parents and his siblings – and he have a very strong bond. I believe that having a family that loves and supports him has helped keep Curtis calm and keep his mind at ease.

12. In all my time knowing him at Parchman, Curtis never was a problem. If all inmates were like him, it would have been the perfect place to work.

13. From observing Curtis and his exemplary conduct at Parchman, I do not believe Curtis would be a threat to anyone or would harm anyone if released on bail. I do not believe he would pose a danger or a risk of fleeing. I believe he would comply with all instructions he was given.


NATHAN HARRIS

Sworn to and subscribed before me on this 10 day of August 2019.

Patricia Merritt
Notary Public



EXHIBIT 5

RED TAG

DATE: 12/26/01

TO: Director of Offender Services.

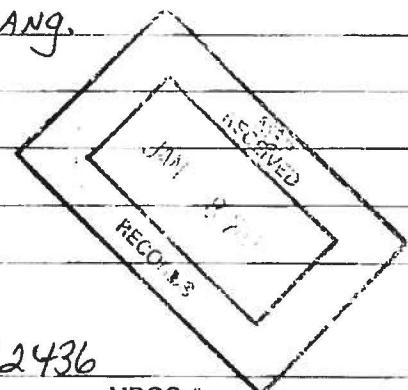
I, Offender Curtis Flowers MDOC # R2436

request that I not be housed with offender Chris Foster #76130

because He and Sherwood Brown, #24754, has had problems

with me since we were on B-ZONE Tier 4.

Because I wouldn't join their gang.



Curtis Flowers

SIGNATURE OF INMATE

Edward A Queen

WITNESS SIGNATURE

Ray Adams

WITNESS SIGNATURE

R2436

MDOC #

Case Manager, 32C

POSITION

Commander

POSITION

I, Offender _____ MDOC # _____

know of no offender that I should not be housed with.

SIGNATURE OF INMATE _____ MDOC # _____

cc: Central Classification
Central Records
Unit Files

EXHIBIT 6

Mississippi Department of Corrections - Male Inmate Reclassification Score Sheet

INMATE NAME: FLOWERS, CURTIS GIOVANNI

MDOC NUMBER: R2436 DATE: 4/2/2019 MED CLASS: Good to excellent

CUSTODY LEVEL: DR FACILITY: MSP

1. HISTORY OF INSTITUTIONAL VIOLENCE (Jail or Prison, score most serious RVR within last 10 years.)

0 - None 0

Comments: None

2. SEVERITY OF CURRENT OFFENSE (Refer to the Severity of Offense Scale. Score most serious offense if there are multiple convictions.)

6 - Highest 6

Comments: Capital Murder x4

3. SEVERITY OF PRIOR FELONY CONVICTIONS (Refer to the Severity of Offense Scale. Score the Inmate's more serious prior felony conviction - past 10 years)

0 - None or Low 0

Comments: None

4. ESCAPE HISTORY (Last 10 years)

0 - None 0

Comments: None

5. CURRENT AGE

0 - 40-49 0

Comments: DOB 5/29/1970

6. INSTITUTIONAL DISCIPLINARY REPORT (Last 12 Months)

-2 - None in the last 12 months -2

Comments: Last RVR B6 7/7/2010

7. SEVERITY OF MOST SERIOUS REPORT

0 - None or Minor 0

Comments: Last RVR B6 7/7/2010

8. PERFORMANCE IN RECOMMENDED WORK / TREATMENT PROGRAMS (during last 6months)

-2 - Satisfactory compliance -2

Comments: DRIP-Level II

TOTAL SCORE 2

EXHIBIT 7

IN THE CIRCUIT COURT OF MADISON COUNTY, STATE OF MISSISSIPPI
FILED
MADISON COUNTY
STATE OF MISSISSIPPI

VERSUS FEB 12 2019 CAUSE NO. 2013 - 0159
JOSHUA LEON ARCHIE BY *JP* ANITA WRAY, CIRCUIT CLERK D.C.

AGREED ORDER TO SET BOND

THIS DAY this cause came to be heard upon the motion of counsel for the Defendant to set a bond in the above referenced Defendant's case and the Court being fully advised on the premises is of the opinion that the Motion is well taken and should be granted. The State is in agreement that the Defendant is entitled to a reasonable bond pursuant to Mississippi Rules of Evidence Rule 8.2 AND MISS. CODE ANN § 99-5-35. gac

IT IS THEREFORE ORDERED AND ADJUDGED that bond is hereby set in the amount of \$250,000 for the charges pending against the Defendant. The Court further orders the following conditions of his bond:

1. The Defendant shall be on house arrest and wear a GPS ankle bracelet to be provided and monitored by Court Watch.
 2. The Defendant shall have no contact with any of the victim's family nor shall he have any contact with any location of Party City, its employees, or owners.

SO ORDERED AND ADJUDGED this the 12th day of February, 2019.

J. H. Koenig
CIRCUIT COURT JUDGE

AGREED TO BY:

Ashley Allen
Ashley Allen
Valerie Adams
Valerie Adams
Counsel for Defendant

EXHIBIT 8

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

V.

CAUSE NO. 2003-0071-CR

CURTIS GIOVANNI FLOWERS

DEFENDANT

DECLARATION OF MRS. LOLA FLOWERS

MRS. LOLA FLOWERS STATES UNDER PENALTY OF PERJURY AS FOLLOWS:

1. My name is Lola Flowers. I am 63 years old, and am the mother of Curtis Flowers. I reside in Winona, Montgomery County, Mississippi in property that has been in my family for generations and have lived here my entire life.

2. My family have resided in Winona Mississippi for generations. I raised my own family here as well. My sons and daughters, including Curtis, all grew up here and went to school here. Some of my children continue to reside here in Winona. Others live with their families in nearby states, but still maintain close ties with the family here in Winona and visit here frequently. Their addresses and all information regarding how to contact or locate them were available at all times to law enforcement from and after the time Curtis was identified by police as a person of interest in this matter. Curtis has never lived for any length of time anywhere in his life prior to his incarceration except here in Winona, or with one of his sisters and her family when he was unable, due to the controversy of this matter, to obtain employment locally.

3. When suspicion fell on Curtis in this matter, he made no attempt to conceal himself or his whereabouts from the authorities, and was available to them every time they desired that he be so. He met with investigating officers whenever requested to do so, was interviewd on several occasions, and surrendered personal property and effects to investigators during the course of those meetings as well. Curtis not only did not conceal himself, he continued to perform publically with the family gospel group in Montgomery County and surrounding areas and to otherwise be fully available not only to assist in

investigation of this matter, but for arrest or voluntary surrender if the authorities had elected to attempt to take him into custody at any time.

4. No one in my family, at least, knew the date the warrant for his arrest was actually sought and issued until after Curtis's arrest in Texas. However, Curtis actually on one of his regular visits with family in Winona when the record shows that warrant was issued and could easily have been taken into custody here (or voluntarily surrendered himself had he been requested to do so). It was only the choice made by the prosecuting or law enforcement authorities to delay attempting to serve the warrant or seek a voluntary surrender that caused Curtis to be in Texas at the time he was actually taken into custody. Curtis immediately waived extradition from Texas and voluntarily returned to Montgomery County to stand trial.

5. To the best of my information and belief, Curtis has had an exemplary disciplinary and behavior record in every place of incarceration where he has been held during the over 13 years he has been held from the time of his arrest on these charges.

6. My son Curtis is a grown man, and would ordinarily not live with a parent at all. However, although the community animosity towards him has not made living in this community easy for me or anyone else in my family even when Curtis has not been living in my home, I unconditionally offer my son Curtis a home in my home during any period of pretrial release on bail, and agree to submit myself to any reasonable conditions of pretrial release that the Court wishes to impose on myself if necessary to permit pretrial release of Curtis.

I understand that a false statement or answer to any questions on this Declaration will subject me to the same penalties for perjury as I would be subjected to as if making this statement under oath.

This the 13^r day of April, 2010.


MRS. LOLA FLOWERS

EXHIBIT 9

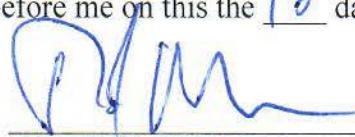
STATE OF MISSISSIPPI
COUNTY OF MONTGOMERY

AFFIDAVIT OF ARCHIE L. FLOWERS

1. My name is Archie L. Flowers.
2. Curtis Flowers is my son. I raised him in Winona, MS, where I still live.
3. Curtis lived almost his whole life in Winona before he was imprisoned.
4. Curtis has strong support from his siblings, who frequently visit him and talk to him on the phone. His brother and one of his sisters live nearby. If he were released on bail, his siblings would take him in to ensure that he is cared for and is available for trial. I am proud to say that they are all healthy, employed, and in stable life situations.
July
5. My wife, Lola Flowers, lived with me until ~~October~~ 2018, when she passed away. We had visited Curtis in prison every two weeks on visitation days. I continue to visit him and talk to him on the phone. Curtis and I were always close, but our relationship took on a new significance after he was locked up. We are even closer now that my wife has passed away.
6. Curtis's daughter lives nearby. His relationship with her has grown over the years that he has been incarcerated. She now has a daughter, his grand-daughter.
7. While in jail and prison, Curtis developed diabetes. He must regularly test his blood and receive insulin shots.
8. Curtis is a wonderful gospel singer with a strong faith. Some of my favorite memories are of singing with him in our local church and in our gospel singing group, which would perform in the area. He continued to perform with us even after the allegations became public.

Archie L. Flowers
ARCHIE L. FLOWERS

SWORN TO AND SUBSCRIBED before me on this the 18th day of May,
2019.


NOTARY PUBLIC

MY COMMISSION EXPIRES:



CERTIFICATE OF SERVICE

The undersigned attorney for Curtis Giovanni Flowers hereby certifies that he has caused to be mailed by electronic mail and by U.S.P.S. mail, postage prepaid, a true and correct copy of the above motion to:

Doug Evans
District Attorney
234 First Street
P.O. Box 1262
Grenada, MS 38902
E-mail: Evansda5@gmail.com

This the 19th day of September, 2019



Robert B. McDuff
Counsel for the Defendant